

UNITED STATES OF AMERICA and the
STATE OF WISCONSIN,

Plaintiffs,

v.

NCR CORPORATION, et al.

Defendants.

I, Randal S. Curtis, hereby declare as follows:

1. I am the Chief of the Special Projects Section of the Ordnance and Technical Services Branch of the United States Army Corps of Engineers, St. Louis District. I submit this declaration in support of the United States' Response to Certain Defendants' Motion to Compel Production of Documents by the United States and the State of Wisconsin (Dkt. No. 491).

2. I began working for the U.S. Army Corp of Engineers in May 1988 in the Geotechnical Branch working on Civil Works projects for the St. Louis District. Since 1994, I have been a Project Manager / Team Leader for the Corps of Engineers, and have prepared or overseen the preparation of over 200 Archive Search Reports and similar studies, including Preliminary Assessments and Historical Records Reviews for investigations of Formerly Used Defense Sites and active and closing (*i.e.*, Base Realignment and Closure or BRAC) military installations across the

country. All of those investigations included review of governmental records both military and civilian. As part of that 18 years of experience, I have extensive direct experience researching archival material at the various facilities of the National Archives and Records Administration (NARA), including the two main archival repositories in the Washington D.C. area, as well as the regional archives and Federal Record Centers (FRC) across the country and the National Personnel Records Center in St. Louis.

3. NARA is the Federal agency that preserves and maintains the permanently valuable records of the US government. NARA makes these records available for research, as encapsulated by their mission statement “ready access to essential evidence.” NARA affords equal access to its public holdings, no matter whether the research is for a private client or a governmental party, or is being conducted as a matter of personal interest, academic interest, or for litigation. Similarly, NARA staff is available to assist any researcher, including members of the public, in navigating the archival collections and locating historic documents.

4. Through my 18 years of experience as Project Manager / Team Leader conducting archival research and analysis, I have become familiar with the means available to locate historic Corps of Engineers documents, to the extent they exist, that may describe historic operations by that organization in the permanent collections of NARA.

5. NARA maintains its records based on the archival principle of provenance. More simply put, NARA keeps the records sorted by the federal agency that created and transferred the material to NARA and retains the records in the order they were in while in active use. In other words, NARA does not consolidate records by topic if material exists from multiple agencies, nor does NARA reorganize the material to follow filing guidance. Rather, the records are maintained by NARA in the way in which the originating agency kept them. To help researchers navigate the records while respecting this principle of provenance, NARA developed specific categories or *Records Groups* to categorize material of various federal agencies. For example, NARA maintains the records of the US Army Corps of Engineers within

Record Group 77, Records of the Office of the Chief of Engineers. Within each Record Group, there are subgroups known as *Series* that consist of sets of documents that the creating office kept together. These Series, sometimes also referred to as an *Entries*, consist of material transferred together from the agency.

6. The steps that Corps of Engineers would take to identify documents that may relate to historic Corps of Engineers operations within NARA's archival holdings are the same that a private researcher would undertake to identify and locate potentially relevant documents. A first step is identifying the proper NARA facility that would retain these records and contacting them about their holdings. The National Archives at Chicago (Great Lakes Region) is the primary repository for inactive historical records created or received by Federal agencies in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. A researcher would request to review the publically available finding aids generally describing the holdings at a specific repository, including any records transfer documentation when available such as the government Standard Form 135, Records Transmittal and Receipt form that the agency used to transfer records. Following a review of the available finding aid materials, a researcher requests the potentially relevant material be retrieved from staff only holding areas and brought to a public reading room where the researcher is then able to review the material box-by-box, folder-by-folder and page-by-page. It is a tedious process to identify and retrieve documentation. Present-day personnel from the Corps of Engineers have no greater access to records generated by Corps of Engineers housed in the National Archives than do members of the general public.

7. I have read the declaration of Don Erwin of the Detroit District U.S. Army Corps of Engineers dated 13 September 2012 regarding the work he conducted at the NARA Great Lakes Region archives in Chicago on 9-10 July 2009 relating to the Lower Fox River and Green Bay Superfund Site, Green Bay, Wisconsin. It indicates he followed the general procedures outlined above to locate documents potentially relating to historic Corps of Engineers operations held at the NARA Great Lakes Region.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: 13th day of September, 2012.

s/ Randal S. Curtis

Randal S. Curtis

Supervisory Civil Engineer

U.S. Army Corps of Engineers

St. Louis District

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing Declaration to be served on counsel of record via e-mail to:

Mary Rose Alexander
Latham & Watkins LLP
mary.rose.alexander@lw.com

Thomas Armstrong
von Briesen & Roper SC
tarmstro@vonbriesen.com

Paul Bargren
Foley & Lardner LLP
pbargren@foley.com

Linda E. Benfield
Foley & Lardner LLP
lbenfield@foley.com

Dennis P. Birke
DeWitt Ross & Stevens SC
db@dewittross.com

Steven P. Bogart
Reinhart Boerner Van Deuren SC
sbogart@reinhardtllaw.com

Michael P. Carlton
von Briesen & Roper SC
mcarlton@vonbriesen.com

Evan R. Chesler
Cravath Swaine & Moore LLP
echesler@cravath.com

Francis A. Citera
Greenberg Traurig LLP
citeraf@gtlaw.com

Marc E. Davies
Greenberg Traurig LLP
daviesm@gtlaw.com

David R. Erickson
Shook Hardy & Bacon LLP
derickson@shb.com

S. Todd Farris
Friebert Finerty & St. John SC
stf@ffsj.com

Patrick J. Ferguson
Latham & Watkins LLP
patrick.ferguson@lw.com

Charles Fried
fried@law.harvard.edu

Sandra C. Goldstein
Cravath Swaine & Moore LLP
sgoldstein@cravath.com

Thomas R. Gottshall
Haynsworth Sinkler Boyd PA
lgantt@hsblawfirm.com

Eric W. Ha
Sidley Austin LLP
eha@sidley.com

Scott W. Hansen
Reinhart Boerner Van Deuren SC
shansen@reinhardtllaw.com

William H. Harbeck
Quarles & Brady LLP
william.harbeck@quarles.com

Cynthia R. Hirsch
Wisconsin Department of Justice
hirschcr@doj.state.wi.us

Margaret I. Hoefer
Stafford Rosenbaum LLP
mhoefer@staffordlaw.com

Caleb J. Holmes
Greenberg Traurig LLP
holmesc@gtlaw.com

Philip C. Hunsucker
Hunsucker Goodstein PC
phunsucker@hgnlaw.com

Peter C. Karegeannes
Quarles & Brady LLP
peter.karegeannes@quarles.com

Paul G. Kent
Stafford Rosenbaum LLP
pkent@staffordlaw.com

Gregory A. Krauss
Gregory Krauss pllc
gkrauss@krausspllc.com

Linda R. Larson
Marten Law PLLC
llarson@martenlaw.com

Vanessa A. Lavelly
Cravath Swaine & Moore LLP
vlavelly@cravath.com

Susan E. Lovern
von Briesen & Roper SC
slovern@vonbriesen.com

Anne E. Lynch
Hunsucker Goodstein PC
alynch@hgnlaw.com

Kevin J. Lyons
Davis & Kuelthau SC
klyons@dkattorneys.com

Karl S. Lytz
Latham & Watkins LLP
karl.lytz@lw.com

Meline G. MacCurdy
Marten Law
mmaccurdy@martenlaw.com

David G. Mandelbaum
Greenberg Traurig LLP
mandelbaumd@gtlaw.com

Bradley M. Marten
Marten Law
bmarten@martenlaw.com

Tara M. Mathison
Davis & Kuelthau SC
tmathison@dkattorneys.com

Allison E. McAdam
Hunsucker Goodstein PC
amcadam@hgnlaw.com

Darin P. McAtee
Cravath Swaine & Moore LLP
dmcatee@cravath.com

Stephen F. McKinney
Haynsworth Sinkler Boyd PA
smckinney@hsblawfirm.com

Heidi D. Melzer
Melzer Law, LLC
hmelzer@melzerlaw.com

Elizabeth K. Miles
Davis & Kuelthau SC
emiles@dkattorneys.com

William J. Mulligan
Davis & Kuelthau SC
wmulligan@dkattorneys.com

Daniel C. Murray
Johnson & Bell Ltd.
murrayd@jbltd.com

Omid H. Nasab
Cravath Swaine & Moore LLP
onasab@cravath.com

Kelly J. Noyes
von Briesen & Roper SC
knoyes@vonbriesen.com

Nancy K. Peterson
Quarles & Brady LLP
nancy.peterson@quarles.com

Thomas M. Phillips
Reinhart Boerner Van Deuren SC
tphillip@reinhartlaw.com

Ian A.J. Pitz
Michael Best & Friedrich LLP
iapitz@michaelbest.com

David A. Rabbino
Hunsucker Goodstein PC
drabbino@hgnlaw.com

Ronald R. Ragatz
DeWitt Ross & Stevens SC
rrr@dewittross.com

Kathleen L. Roach
Sidley Austin LLP
kroach@sidley.com

Megan A. Senatori
DeWitt Ross & Stevens SC
ms@dewittross.com

Adam B. Silverman
Greenberg Traurig LLP
silvermana@gtlaw.com

M. Andrew Skierawski
Friebert Finerty & St. John SC
mas@ffsj.com

Sarah A. Slack
Foley & Lardner LLP
sslack@foley.com

Margaret R. Sobota
Sidley Austin LLP
msobota@sidley.com

Arthur A. Vogel, Jr.
Quarles & Brady LLP
arthur.vogel@quarles.com

Anthony S. Wachewicz, III
City of Green Bay
tonywa@ci.green-bay.wi.us

James P. Walsh
Appleton City Attorney
jim.walsh@appleton.org

Ted A. Warpinski
Friebert Finerty & St John SC
taw@ffsj.com

Ted Waskowski
Stafford Rosenbaum LLP
twaskowski@staffordlaw.com

Evan B. Westerfield
Sidley Austin LLP
evanwesterfield@sidley.com

Richard C. Yde
Stafford Rosenbaum LLP
ryde@staffordlaw.com

Dated: September 17, 2012

s/ Randall M. Stone